IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V. ESWARAIAH

WRIT PETITION NO : 6873 of 2005

Between:

Kalidindi Venkata Lakshmi, W/o.K.V.S.Suryanarayana Raju, R/o.D.No.58-29-

27/2, Kakini Nagar, N.D.A.(Post), Visakhapatnam, Visakhapatnam District.

... PETITIONER

AND

1 The Executive Engineer, Eastern Power Distribution Co.Ltd., A.P.Transco., Bhimavaram, West Godavari District.
2 The Deputy Executive Engineer, Eastern power Distribution Co.Ltd.,

A.P.Transco, Palakol, West Godavari District.
3 The Asst.Executive Engineer, Eastern Power Distribution Co.Ltd.,

A.P.Transco, Veerasaram (M), West Godavari District.
4 The Collector, West Godavari at Eluru.
5 Sri Vara Lakshmi Satyanarayana Modern Rice Mill, rep.by its prop.

Ch.Varalakshmi, W/o.Narasimha Rao, R/o.Tholeru (V), Veerasaram Mandal,

West Godavari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction particularly one in the nature of writ of Mandamus directing the respondents 1 to 4 herein not to erect High Tension Electrical Lines passing through 191 coconut trees on either side of the road margin from the house of Sagiraju Surapuraju, towards Eastern side i.e., Murugu Drain up to the Bridge, situated at Navuduru, Vendra to Surapurajupeta - Jonnalapalem Road, Veeravasaram Mandal, West Godavari District, as illegal, arbitrary, and consequently direct the respondents 1 to 4 herein, not to erect High Tension Electrical wires to the said road margins and pass such other or further orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.POLISETTI RADHAKRISHNA
Counsel for the Respondents 1 to 3: MR.M.SREERAMULU REDDY
Counsel for the Respondent No.4: GP FOR REVENUE
Counsel for the Respondent No.5: MRS. D. GEETHA

The Court made the following order:

ORDER:

Petitioner, who is a resident of Visakhapatanam, submits that the her father Late Chintalapati Sita Rama Raju entered into an agreement on 11.01.1971 with the Tholeru Gram Panchayat of Veerasaram Mandal, West Godavari District, permitting him to plant 300 coconut trees on the panchayat road margin and out of them 230 coconut trees survived and the said trees are fruit bearing and to enjoy the usufruct on certain terms and conditions. Subsequently, the road margin was transferred to Zilla Parishad and accordingly the petitioner's father entered into an agreement with the Secretary, Zilla Parishad on 17.12.1976 and since then he has been paying tree tax regularly and fulfilling other terms and conditions.

It is submitted that the Zilla Parishad passed order dated 21.09.2003 allotting 191 coconut trees which are situated at, from the house of Sagiraju Surapuraju towards Eastern side i.e., Muru Drain up to the Bridge on either side of the road margin to the petitioner and her brothers were allotted 18 and 21 coconut trees respectively.

While the matter stood thus, the fifth respondent – rice mill tried to erect High Voltage Electric Lines passing through the road margin, which are in close proximity to the petitioner's coconut trees nearly 191 in number. In this connection, the villagers of Balusulagoyyipalem, Veeravallipalem, Rajulagaruvu, made a representation dated 21.03.2005 to the District Collector to stop the erection of High Tension Electrical Wires passing through the road margins stating that it is highly objectionable and there is every likelihood of endanger to the lives of the villagers. But the respondents 1 to 4 have not

passed any orders.

While so, on 27.03.2005 a legal notice was issued to stop the erection of high tension voltage poles and wires as it is likely to cause damage to the coconut trees to a tune of 70 trees. It is stated that on 28.03.2005 the respondents 1 to 3 have already cut away 5 trees without following any due procedure as contemplated under the Electricity Act.

Learned counsel for the petitioner submits that if the high tension electrical wires are erected it would disable the petitioner to pluck the coconuts from the trees as the same would be destroyed by way of getting electrical shock. Accordingly, this writ petition is filed seeking a Writ of Mandamus to direct the respondents 1 to 4 not to erect the high tension electrical wires passing through the 191 coconut trees on either side of the road from the house of Sagiraju Surapurajugar towards Eastern side i.e., Muru Drain up to the Bridge situated at Navudur, Vendra to Surapurajupeta – Jonnalapalem Road, Veeravasaram Mandal, West Godavari District.

Fifth respondent filed the counter and the vacate stay petition stating that the Officials of the Zilla Parishad have not objected for the erection of the electrical poles and the petitioner has not filed any representation before the Zilla Parishad holding that the erection is affecting her right or the damage that would be caused to the coconut trees. It is stated that there is no any erection of high tension electrical wires but electrical poles have already been and the electricity department has been providing only twenty four hours current supply under the Small Scale Industrial quota from the existing 11 KV line. It is submitted that the respondents did not cut away even a single tree as alleged by the petitioner on 28.03.2005 or on any other date. Therefore, there is no any highhanded action of the respondents on the petitioner. The petitioner is not a resident of Tholeru Village and she has sub leased the trees to some other persons and through them only she is getting the usufruct and also there is no infringement of any legal right of the petitioner. Petitioner is a resident of Vizag and she being the permanent resident of Vizag, only at the instigation of the some persons who are having political rivalry she has resorted to filing this writ petition.

It is further stated that the fifth respondent – rice mill at Tholeru is already having service connection under service No.450, and it is running by three phase current through the rural

feeder which is in the capacity of 11 KV which is the lowest in KVs. All the rural feeders are in 11 KV only, but the authorities are giving seven hours current for three phases, there is a power cut for another seven hours and the remaining ten hours they are giving only two phase current. Therefore, the fifth respondent is not in a position to meet the needs of the villagers.

Accordingly, the fifth respondent applied for a separate line under the small scale industrial quota for twenty-four hours supply and the same was sanctioned on 25.02.2005 vide proceedings of the Chairman and Managing Director, APEPDCL, Visakhapatnam for erection of 2.5 KM of 11 KV line to be tagged to 11 KV BR Ceruvu Industrail Feeder emanating from 33/11 KV Konithivada SS to facilitate 24 hours 3 phase supply. After sanction, the Superintending Engineer, Operation Circle APEPDCL, Eluru has accorded permission vide proceedings dated 10.03.2005 and directed the fifth respondent to execute the work under turnkey basis. According to the turnkey basis, under the specifications of the electrical authorities the work was handed over to the authorized contract. As per the directions of the electrical officials only the work was completed and therefore, the fifth respondent handed over the said work to the authorities on 29.03.2005 and the authorities have received the same and completed the remaining work to charge the line by taking all precautions.

I have heard the rival contentions of the petitioners and the petitioner has not advanced any contentions holding that her legal right is infringed. There is no any allegation to show as to how the lines were laid contrary to the relevant rules and regulations for erecting the lines. No high-tension lines have been erected, as a matter of fact; the fifth respondent was sanctioned only 73.99 HP and high-tension means, morethan 75 per cent of the HP. Therefore, I am of the opinion that the petitioner has filed the writ petition with frivolous allegations and she is not entitled for any relief as there is no foundation laid by her to *prima facie* show that any coconut tree has been removed or has been damaged or any legal right of the petitioner has been infringed.

Accordingly, the writ petition is dismissed vacating the interim order granted earlier. No costs.

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V. ESWARAIAH, J

April 15, 2005

Note: Furnish copy by wire at party's costs

(B/o)

Dsk

To

1 The Executive Engineer, Eastern Power Distribution Co.Ltd., A.P.Transco., Bhimavaram, West Godavari District.
2 The Deputy Executive Engineer, Eastern power Distribution Co.Ltd.,

A.P.Transco, Palakol, West Godavari District.
3 The Asst.Executive Engineer, Eastern Power Distribution Co.Ltd.,

A.P.Transco, Veerasaram (M), West Godavari District.
4 The Collector, West Godavari at Eluru.

5 Two CCs to GP For Revenue, High Court Buildings, Hyderabad (OUT)

Two CD Copies.